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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,876	05/16/2001	Nadine Fabiano	T2147-907162	9950
181	7590	03/25/2005	EXAMINER	
MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/831,876	Applicant(s) FABIANO ET AL.	
	Examiner Steven HD Nguyen	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/16/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Pre-amendment

1. This action is in response to the amendment filed on 5/16/01. Claims 1-5 have been canceled and claims 6-10 are pending in the application.

Claim Objections

2. Claim 1 is objected to because of the following informalities:

As claim 1, line 2, "aid" should be replaced with -- said --.

As claim 1, line 4, "that measures" should be replaced with -- measuring -- as showed in the markup section. Appropriate correction is required.

As claim 2, line 3, "a first threshold" should be changed to a threshold because the claims does not refer to a second threshold.

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-5 been renumbered 6-10.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 6-7 and 9-10 rejected under 35 U.S.C. 102(e) as being anticipated by Kalampoukas (USP 6438101).

Regarding claim 6 and 10, Kalampoukas discloses a device for reducing congestion in a network layer of a router machine (Fig 2, Ref 110) when it accumulates in a queue (Fig 2, Ref 113)) in a memory of said router machine, datagram to be transmitted through a first network (Fig 1, Ref 100), comprising means in said memory for detecting any datagram received from said first network (Fig 3, Ref 300, col. 6, lines 19-29) wherein a field "window size" of a first transport layer contains a received window value (Fig 3, the ack packet contains a received window value of the previous node), and means for entering a sent window value into said received window value (VFR) based on a fullness level of said queue (Fig 3, ref 330 and 335, the send window size is calculated based on the measured buffer occupancy "measured fullness level of the buffer, col. 4, lines 55-61" for generating a signal to a window size determination function" at the time the send window size is calculated, col. 6, lines 30-64) before routing the detected datagram through a second network (Fig 1, ref 130) to a second transport layer, said second transport layer (4) configured to limit its send rate based on the sent window value (VFE), the sent window value being at least equal to a remaining window value representing for each connection established, the number of bytes transmittable at the time said number of bytes is generated (Fig 3, Ref 350, the source node receives the ack packet and controlling its transmission rate based on the received send window size which is at least equal to a remaining value, col. 8, lines 1-12).

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Regarding claims 7 and 9, Kalampoukas discloses the fullness level of buffer signal is generated when the accumulated data in the buffer exceeds the first threshold in order to generate the send window value by limiting the receiving window value (Col. 8, lines 45-59 and col. 6, lines 55-65).

Allowable Subject Matter

6. Claim 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hunt (USP 6151300) discloses a system and method for performing a high layer flow control by modifying the window value in the received packet based on the fullness level of the buffer before forwarding the packet to the source.

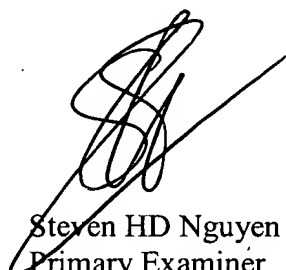
Gullicksen (USP 6370114) discloses a system and method for performing a high layer flow control by modifying the window value in the packet based on the fullness level of the buffer before forwarding the packet to the source.

Jamp (USP 6320846) discloses a system and method for performing a high layer flow control by modifying the window value in the packet based on the fullness level of the buffer before forwarding the packet to the source.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen
Primary Examiner
Art Unit 2665
3/16/05